



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-178918

40108
October 26, 1973

MSI Industries, Incorporated
Post Office Box 16067
3800 Race Street
Denver, Colorado 80216

Attention: Mr. James N. Jones
President

Gentlemen:

Reference is made to your letter dated June 13, 1973, protesting against the selection of Nichols Engineering and Research Corporation (Nichols) as a supplier of a Multiple Hearth Incinerator System by the South Essex Sewer District, Salem, Massachusetts, pursuant to a grant made by Region I (Boston) of the Environmental Protection Agency (EPA).

This project is for construction of a wastewater treatment project, and includes a third-tier sub-item for the installation of the aforementioned incinerator system. The contract is to be awarded by the South Essex Sewer District, and is partially financed by an EPA grant issued pursuant to section 8 of the former Water Pollution Control Act (33 U.S.C. 1153).

Essentially, you contend that Nichols is not capable of meeting the specifications and you request that certain precautions be taken to assure compliance with Federal rules and regulations pertaining to bidder responsibility.

The grant in question is subject to both the EPA general conditions and to the specific wastewater works construction grant provisions which, in pertinent part, require the construction contract to be awarded to the lowest responsive, responsible bidder without regard to State or local law whereby preference may be given on factors other than the amount of the bid. We think the requirement for competitive bidding without regard to State or local law is for application only in connection with award of the prime contract. We note that these grant provisions otherwise require conformance to applicable State and local laws.

Contractor
[Protest of Selection by EPA Grantee]

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It is our opinion that the grant provisions affecting the letting of subcontracts for the project require the application of procurement procedures consistent with State and local law. We find no basis in this case for requiring strict adherence to the statutory and regulatory requirements governing Federal procurements. 43 Comp. Gen. 697 (1964).

Sincerely yours,

Paul G. Dembling
For the Comptroller General
of the United States